

CAA-III-077

DELTA REMOVAL, INC, AND
ABINGTON MEMORIAL HOSPITAL, INC

9-30-96 Administrative Complaint Proposed Penalty \$16,000.00
10-29-96 Answer to Complaint
11-14-96 Letter to Judge Lottis
11-15-96 Letter from respondent in regard to request for
hearing of Delta Removal, Inc.
1-27-97 Order of Designation - ALJ - Andrew S. Raskiewicz
2-13-97 Prehearing Order
4-9-97 Prehearing Exchange - Complainant - In attached folder
4-28-97 Letter from respondent that your Honor has granted
the respondents a 30 day extension to file Prehearing
exchange
5-27-97 Consent Order and Consent Agreement \$13,600.00
5-29-97 A reminder letter of promise to pay.
EARCNF
6-3-97 Copy of Check \$13,600.00
6-4-97 Certified Check \$13,600.00

Morgan, Lewis
& Bockius LLP
COUNSELORS AT LAW

R. Libor
663-4936

June 2, 1997

CR-97076
input 6/5/97
cd

U.S. Environmental Protection Agency
Region III
P.O. Box 360515
Pittsburgh, PA 15251-6515

Re: In the Matter of: Delta Removal, Inc. and Abington Memorial Hospital, Inc.
Docket No. CAA-III-077

Dear Sir/Madam:

Enclosed is the check in the amount of \$13,600 representing the assessment in the above-referenced matter.

Sincerely yours,

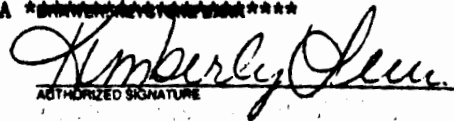

Michael R. Libor

MRL/jb

0397CD149



06-04-97 0360515 0515174 4 001 20

KeyBank		OFFICIAL CHECK		680663603	
MEMO		DATE		MAY 29 19 97	
PAY		PAYED 13600 AND 00 CTS		*****13,600.00*****	
ORDER OF		TREASURER, UNITED STATES OF AMERICA		AUTHORIZED SIGNATURE	
					
:022000868:68:979854 698663609 :0001360000:					

2000 One Logan Square
Philadelphia, PA 19103-6993
215-963-5000
Fax: 215-963-5299

**Morgan, Lewis
& Bockius LLP**
C O U N S E L O R S A T L A W

Michael R. Libor
215-963-4936

June 2, 1997

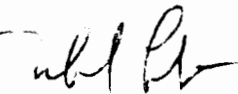
U.S. Environmental Protection Agency
Region III
P.O. Box 360515
Pittsburgh, PA 15251-6515

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Docket No. CAA-III-077

Dear Sir/Madam:

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Sincerely yours,



Michael R. Libor

MRL/jb

Enclosure

cc: Ms. Lydia Guy, (copy enclosed)
Douglas J. Snyder, Esquire, (copy enclosed)

PH03/222280.1

RECEIVED
97 JUN -3 PM 3:49
CITY CLERK
ST. LOUIS, MO

THE BACK OF THIS DOCUMENT HAS AN INTEGRAL WATERMARK PATTERN AND...
OFFICIAL CHECK
HOLD THE DOCUMENT AT A SMALL ANGLE TO SEE THIS SECURITY FEATURE

Keystone Bank
A Keystone Financial Company Bank

698663609

Issued By Integrated Payment Systems Inc., Englewood, Colorado
To Citibank (New York State), Buffalo, N.Y. 10-86/220

MEMO _____ DATE MAY 29, 1997

PAY **PAYED 13600 AND 00 CTS** *****13,600.00*****
\$ _____

ORDER OF **TREASURER, UNITED STATES OF AMERICA** *DRAWER: KEYSTONE BANK*****
Kimberly Lee
AUTHORIZED SIGNATURE

⑆022000868⑆68⑆979854 698663609

2000 One Logan Square
Philadelphia, PA 19103-6993
215-963-5000
Fax: 215-963-5299

Michael R. Libor
215-963-4936

June 2, 1997

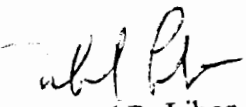
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Sincerely yours,


Michael R. Libor

MRL/jb

See C.
Jim
**Morgan, Lewis
& Bockius LLP**
COUNSELORS AT LAW

Wita's

CR - 97076

0397CD149



06-04-97 0360515 0515174 4 001 20

OFFICIAL CHECK

Keystone Bank
A Division of Mellon Bank

MEMO _____ DATE _____ 19 97

PAY **PAYEE 13600 AND 00 CTS** *****13,600.00*****

ORDER OF ☐ **TREASURER, UNITED STATES OF AMERICA** ☐ **UNITED STATES DEPARTMENT OF JUSTICE**

Kimberly Lee
AUTHORIZED SIGNATURE

022000868:68979854 698663609 0001360000

THE VARIABLE TONE BACKGROUND AREA OF THIS DOCUMENT CHANGES FROM DARK TO LIGHT TONES AT BOTH TOP AND BOTTOM TO THE LIGHTEST TONE IN THE MIDDLE.

970.76

DM

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Doug Snyder 5/2/97
Name of Contact person Date
in the ORC (3RC11) at (215) 566-2692
office phone number

☐ Non-SF Jud. Order/Consent
Decree. DOJ COLLECTS

☒ Administrative Order/
Consent Agreement
FMD COLLECTS PAYMENT

☐ SF Jud. Order/Consent
Decree. FMD COLLECTS

☐ This is an original debt

☐ This is a modification

Name of Person and/or Company/Municipality making the payment

Delta Removal, Inc.

The Total Dollar Amount of Receivable \$13,600
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CAA-III-077

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/~~PR~~ Program Office Refined & Disposal Enforcement
Section (3AT11)

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number 97076

If you have any questions call: Conly Spusate 5-29-97
(Name of Contact) (Date)

in the Financial Management Office, phone number: 62-5170

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005

2. Originating office (ORC)
3. Designated Program Office

1/m
5/29

03

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel

me

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FMD COLLECTS PAYMENT

☐ SF Jud. Order/Consent
Decree. FMD COLLECTS

☐ This is an original debt

☐ This is a modification

Name of Person and/or Company/Municipality making the payment

Delta Biotech, Inc.

The Total Dollar Amount of Receivable \$13,600
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CAA-III-C77

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/~~Program~~ Program Office Enforcement & Compliance Enforcement
Section (3AT11)

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
(Name of Contact) (Date)

in the Financial Management Office, phone number: _____

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Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
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2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

May 28, 1997

Via first class mail and facsimile

Honorable Andrew S. Pearlstein
Office of Administrative Law Judges
Mailcode 1900
U.S. Environmental Protection Agency
401 M St., S.W.
Washington, D.C. 20460

Re: In re: Delta Removal, Inc, and Abington Memorial
Hospital, Inc., Docket No. CAA-III-077

Dear Judge Pearlstein:

Enclosed please find a copy of the fully executed Consent Agreement and Consent Order resolving all issues in this case. The original of the Consent Agreement and Consent Order was filed with the Regional Hearing Clerk. Please do not hesitate to have your legal assistant contact me if you have any questions. I can be reached at (215) 566-2692.

Respectfully submitted,

Douglas J. Snyder
Assistant Regional Counsel

enclosure

cc: (w/ enclosure)

Michael Libor, Esq.
Counsel for Delta Removal, Inc.

Richard Montalbano
Abington Memorial Hospital, Inc.

STAMPED: MAY 29 10:10:34



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 29, 1997

Michael Libor, Esquire
Morgan Lewis & Bockius
c/o Delta Removal, Inc.
2000 One Logan Square
Philadelphia, PA 19103-6993

Principal Due:	\$13,600.00
Interest:	\$0.00
Handling:	\$0.00
Penalty:	\$0.00
Balance Due:	\$13,600.00

RE: Delta Removal, Inc.

Docket No./BD No. CAA-III-077/97076

THIS IS A REMINDER

This letter is being sent to you as counsel for Delta Removal, Inc. To prevent further collection activity as stated in the Consent Agreement and Consent Order regarding the above-referenced matter, it is imperative that payment is received on or before **June 28, 1997**.

A cashier's or certified check should be made payable to TREASURER, UNITED STATES OF AMERICA, and forwarded to the address below. **Please include the information in the reference line above on the check.**

EPA Region III
P.O. Box 360515
Pittsburgh, PA 15251-6515

If you have any questions regarding this matter, please feel free to call Cindy Sobusiak, of my staff, at (215) 566-5170 or Doug Snyder, Office of Regional Counsel at (215) 566-2692.

Thank you for your attention to this very important matter.

Sincerely,

Noel Schleifman
Financial Management Officer

cc: D. Snyder (3RC11)
 S. Canning (3RC00)

Shu



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 29, 1997

Mr. Richard Montalbano
Vice President, Management Services
Abington Memorial Hospital, Inc.
1200 Old York Road
Abington, PA 19001

Principal Due:	\$13,600.00
Interest:	\$0.00
Handling:	\$0.00
Penalty:	\$0.00
Balance Due:	\$13,600.00

RE: Abington Memorial Hospital, Inc.

Docket No./BD No. CAA-III-077/97076

THIS IS A REMINDER

This letter is being sent to you as the representative for Abington Memorial Hospital, Inc. To prevent further collection activity as stated in the Consent Agreement and Consent Order regarding the above-referenced matter, it is imperative that payment is received on or before **June 28, 1997**.

A cashier's or certified check should be made payable to **TREASURER, UNITED STATES OF AMERICA**, and forwarded to the address below. **Please include the information in the reference line above on the check.**

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Sincerely,

Noel Schleifman
Noel Schleifman
Financial Management Officer

cc: D. Snyder (3RC11)
→ S. Canning (3RC00)

*I need this
case file
5.*

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EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

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Decree. DOJ COLLECTS

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FMD COLLECTS PAYMENT

☐ SF Jud. Order/Consent
Decree. FMD COLLECTS

☐ This is an original debt

☐ This is a modification

Name of Person and/or Company/Municipality making the payment

Delta Remedial, Inc.

The Total Dollar Amount of Receivable \$13,600
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CAA-III-C77

The Site-Specific Superfund Acct. Number N/A

The Designated Regional/Program Office Regional & District Enforcement
Section (3AT11)

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
(Name of Contact) (Date)

in the Financial Management Office, phone number: _____

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ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
3. Regional Hearing Clerk

2. Designated Program Office
3. Regional Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

May 28, 1997

Via first class mail and facsimile

Honorable Andrew S. Pearlstein
Office of Administrative Law Judges
Mailcode 1900
U.S. Environmental Protection Agency
401 M St., S.W.
Washington, D.C. 20460

Re: In re: Delta Removal, Inc. and Abington Memorial
Hospital, Inc., Docket No. CAA-III-077

Dear Judge Pearlstein:

Enclosed please find a copy of the fully executed Consent Agreement and Consent Order resolving all issues in this case. The original of the Consent Agreement and Consent Order was filed with the Regional Hearing Clerk. Please do not hesitate to have your legal assistant contact me if you have any questions. I can be reached at (215) 566-2692.

Respectfully submitted,

Douglas J. Snyder
Assistant Regional Counsel

enclosure

cc: (w/ enclosure)

Michael Libor, Esq.
Counsel for Delta Removal, Inc.

Richard Montalbano
Abington Memorial Hospital, Inc.

97 MAY 28 11:10:34
FBI
PHILADELPHIA

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

In the Matter of: :
: :
Delta Removal, Inc., : Docket No. CAA-III-077
and :
Abington Memorial :
Hospital, Inc. :
: :
Respondents :
:

97 MAY 28 AM 10:34
1997

CONSENT AGREEMENT

I. JURISDICTION

1. This administrative proceeding for the assessment of a civil penalty was initiated under the authority of Section 113(d) of the Clean Air Act (the "CAA"), 42 U.S.C. § 7413(d). The action was initiated by issuance of a Complaint and Notice of Opportunity for Hearing (the "Complaint"), dated September 30, 1996, to Abington Memorial Hospital, Inc. (Abington or Respondent) and Delta Removal, Inc. (Delta or Respondent). The Complaint alleges that Respondents violated § 112 of the CAA, 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP), 40 C.F.R. Part 61, subpart M, by 1) failing to adequately wet regulated asbestos

containing material (RACM) during removal of the RACM in the Hospital on July 9 and 10, 1996, in violation of 40 C.F.R. § 61.145(c)(3), and 2) failing to adequately wet the RACM after it was removed and ensure that it remained wet until collected and contained or treated in preparation for disposal on July 9 and 10, 1996, in violation of 40 C.F.R. § 61.145(c)(6)(i).

2. Respondent Delta responded to the Complaint by letter dated October 25, 1996, denying the allegations and requesting a hearing on the allegations in the Complaint. By letter dated November 11, 1996, Respondent Abington responded to the Complaint by adopting Delta's response as its own and requesting a hearing on the allegations in the Complaint.

3. The Parties wish to amicably resolve this dispute.

II. GENERAL PROVISIONS

4. Respondents admit the jurisdictional allegations set forth in the Complaint.

5. Respondents neither admit nor deny the factual allegations set forth in the Complaint.

6. Respondents expressly waive their right to a hearing on any issue of fact or law alleged in the complaint and consent to the issuance of this Consent Agreement and Consent Order without

adjudication.

7. Respondent Delta consents to the issuance of the Consent Order attached to this Consent Agreement and consents to the payment of a civil penalty of thirteen thousand six hundred dollars (\$13,600).

8. Respondent Abington consents to the issuance of the Consent Order attached to this Consent Agreement. In light of Respondent Delta's obligation to pay the \$13,600 civil penalty, Respondent Abington shall not be assessed any portion of the agreed-upon civil penalty in this case.

9. Each party to this action agrees to pay its own costs and attorneys' fees.

10. Each Respondent certifies to EPA by its respective signature herein that it is presently in compliance with the provisions of the CAA referenced in the Complaint.

11. This Consent Agreement and Consent Order only resolves those civil claims which are alleged in the Complaint and constitutes a full settlement of those claims. Nothing herein shall be construed to limit the authority of the EPA to undertake action against any person, including the Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or

the environment. Nor shall anything in this Consent Agreement or Consent Order be construed to limit the United States' authority to pursue criminal sanctions.

12. Respondent Delta agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and Consent Order.

III. FINDINGS OF FACT

13. The factual allegations contained in paragraphs 1 through 26 of the Complaint are incorporated herein by reference.

IV. EPA's CONCLUSION OF LAW

14. EPA concludes that Respondents have violated section 112 of the CAA and 40 C.F.R. §§ 61.145(c)(3) and 61.145(c)(6)(i) by failing to wet the regulated asbestos containing material during removal on July 9 and 10, 1996, and by failing to keep the removed regulated asbestos containing material wet and ensure that it remained wet until collected and contained for disposal,

and are therefore liable to the United States for a civil penalty pursuant to § 113(a) and (d) of the CAA.

5/2/97

DATE

Douglas J. Snyder

Douglas J. Snyder
Assistant Regional Counsel
EPA Region III

4/28/97

DATE

Robert Lavelle

Robert Lavelle, Sr., President
Delta Removal, Inc.

DATE

Richard Montalbano,
Vice-president, Management Services
Abington Memorial Hospital, Inc.

Accordingly, the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, recommends that the Regional Judicial Officer issue the attached Consent Order, requiring Respondent Delta to pay a penalty of \$13,600.

5/15/97

DATE

Janet L. Beard

for Thomas J. Maslany, Director
Air, Radiation & Toxics Division

DELTA3.CAC

5

97 MAY 28 AM 10:34
OFFICE OF THE REGIONAL JUDICIAL OFFICER
EPA REGION III
PHILADELPHIA, PA

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5/2/97
DATE

Douglas J. Snyder
Douglas J. Snyder
Assistant Regional Counsel
EPA Region III

DATE

Robert Lavelle, Sr., President
Delta Removal, Inc.

4/25/97
DATE

Richard Montalbano
Richard Montalbano,
Vice-president, Management Services
Abington Memorial Hospital, Inc.

Accordingly, the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, recommends that the Regional Judicial Officer issue the attached Consent Order, requiring Respondent Delta to pay a penalty of \$13,600.

5/15/97
DATE

for Paul L. Bard
Thomas J. Maslany, Director
Air, Radiation & Toxics Division

DELTA3.CAC

97 MAY 28 AM 10:34
EPA REGION III
AIR, RADIATION & TOXICS DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

In the Matter of: :
: :
Delta Removal, Inc., : Docket No. CAA-III-077
and :
Abington Memorial :
Hospital, Inc. :
: :
Respondents :
:

CONSENT ORDER

The undersigned accepts and incorporates into this Consent Order by reference the Consent Agreement signed by the Respondents and EPA.

NOW, THEREFORE, PURSUANT TO 40 C.F.R. §22.18(c), it is hereby ordered that Respondent Delta Removal, Inc. pay a civil penalty of thirteen thousand six hundred dollars (\$13,600).

The effective date of the Consent Agreement and the Consent Order is the date that the Order is signed by the Regional Judicial Officer. Respondent Delta shall pay the civil penalty of thirteen thousand six hundred dollars (\$13,600) by submitting

a certified or cashiers check within 30 calendar days of the effective date of this Consent Agreement and Consent Order. The check shall be made payable to the order of "Treasurer, United States of America" and shall reference the docket number in this action (CAA-III-077). The check shall be sent to:

U.S Environmental Protection Agency
Region III
P.O. Box 360515
Pittsburgh, Pa. 15251-6515

Simultaneously with the submission of the payment, Respondent Delta shall send a notice of such payment, including a copy of the check, to the following persons:

Ms. Lydia Guy
Regional Hearing Clerk
Mail code 3RC00
U.S. EPA
841 Chestnut Bldg.
Philadelphia, Pa. 19107

and

Douglas J. Snyder, Esq.
Mail Code 3RC11
U.S. EPA
841 Chestnut Bldg.
Philadelphia, Pa. 19107

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and penalties on debts owed to the

United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on any unpaid amount if it is not paid within thirty (30) days of the effective date as described above. Interest will be assessed at the rate of the U.S. Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts, based on either actual or average cost incurred, will be charged on all debts. 40 C.F.R. § 13.11(b). In addition, a penalty will be assessed on any portion of the debt which remains delinquent more than ninety (90) calendar days after payment is due. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due pursuant to 40 C.F.R. § 102.13(e). Furthermore, pursuant to EPA Resources Management Directives System, Chapter 9, EPA will assess a \$15.00 handling charge for

administrative costs on unpaid penalties for the first 30 day period after a payment is due and an additional \$15.00 for each subsequent 30 days the penalty remains unpaid.

5/27/97

Date

Benjamin Kalkstein

Benjamin Kalkstein

Regional Judicial Officer

97 MAY 28 AM 10:34
104713 104713 104713
104713 104713 104713

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date shown below, the original of the attached Consent Agreement and Consent Order in In re: Delta Removal, Inc. and Abington Memorial Hospital, Inc., CAA-III-077, was hand-delivered to the Regional Hearing Clerk of EPA Region III, and that true and correct copies were sent by the methods indicated below to the persons listed below:

via first class mail, postage paid, and facsimile

Honorable Andrew S. Pearlstein
Office of Administrative Law Judges
Mailcode 1900
U.S. Environmental Protection Agency
401 M St., S.W.
Washington, D.C. 20460
fax (202) 260-3720

Michael Libor, Esq.
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, Pa. 19103-6993
fax (215) 963-5299
Counsel for Delta Removal, Inc.

via first class mail, postage paid

Richard Montalbano
Vice-president, Management Services
Abington Memorial Hospital, Inc.
1200 Old York Road
Abington, Pa. 19001

5/28/97
Date

Douglas J. Snyder
Douglas J. Snyder
Assistant Regional Counsel

97 MAY 28 AM 10:34
RECEIVED
EPA REGION III
PHILADELPHIA, PA.

2000 One Logan Square
Philadelphia, PA 19103-6993
215-963-5000
Fax: 215-963-5299

**Morgan, Lewis
& Bockius LLP**
C O U N S E L O R S A T L A W

Michael R. Libor
215-963-4936

April 29, 1997

VIA TELEFAX

The Honorable Andrew S. Pearlstein
Administrative Law Judge
U.S. Environmental Protection Agency
Mail Code 1941 M Street, S.W.
Washington, D.C. 20460

Re: In the matter of Delta Removal, Inc. & Abington Memorial Hospital, Inc., respondents
Docket No. CAA-III-077

Dear Judge Pearlstein:

We represent Delta Removal, Inc. in the above-referenced matter. Delta Removal has agreed to defend and indemnify Abington Memorial Hospital, Inc. in this matter.

As confirmed in my voice-mail this morning, I am pleased to report that the parties have agreed to a Consent Agreement and proposed form of Consent Decree to fully and finally resolve this matter. The Consent Agreement has been signed by both of the respondents and has been forwarded to Douglas Snyder, Esquire, attorney for the EPA, for signature and presentation to the Regional Judicial Officer. Your Honor's prehearing order dated February 12, 1997 required that the respondents provide their prehearing exchanges on or before April 30, 1997. In light of the settlement and Consent Agreement, this will confirm a discussion with your assistant, Maria Whiting, that Your Honor has granted the respondents a 30 day extension to file prehearing exchanges, pending entry of the Consent Decree.

PH03/213162.1

**Morgan, Lewis
& Bockius**

The Honorable Andrew S. Pearlstein
April 29, 1997
Page 2

Thank you very much for your attention to this matter.

Sincerely yours,



Michael R. Libor

MRL/jb

cc: Douglas J. Snyder, Esquire - EPA, (via telefax and regular mail)
Lydia Guy, Regional Hearing Clerk, (via telefax and regular mail)

2000 One Logan Square
Philadelphia, PA 19103-6993
215-963-5000
Fax: 215-963-5299

Morgan, Lewis
& Bockius LLP
C O U N S E L O R S A T L A W

Michael R. Libor
215-963-4936

April 29, 1997

VIA TELEFAX

The Honorable Andrew S. Pearlstein
Administrative Law Judge
U.S. Environmental Protection Agency
Mail Code 1941 M Street, S.W.
Washington, D.C. 20460

Re: In the matter of Delta Removal, Inc. & Abington Memorial Hospital, Inc., respondents
 Docket No. CAA-III-077

Dear Judge Pearlstein:

We represent Delta Removal, Inc. in the above-referenced matter. Delta Removal has agreed to defend and indemnify Abington Memorial Hospital, Inc. in this matter.

As confirmed in my voice-mail this morning, I am pleased to report that the parties have agreed to a Consent Agreement and proposed form of Consent Decree to fully and finally resolve this matter. The Consent Agreement has been signed by both of the respondents and has been forwarded to Douglas Snyder, Esquire, attorney for the EPA, for signature and presentation to the Regional Judicial Officer. Your Honor's prehearing order dated February 12, 1997 required that the respondents provide their prehearing exchanges on or before April 30, 1997. In light of the settlement and Consent Agreement, this will confirm a discussion with your assistant, Maria Whiting, that Your Honor has granted the respondents a 30 day extension to file prehearing exchanges, pending entry of the Consent Decree.

PH03/213162.1

The Honorable Andrew S. Pearlstein
April 29, 1997
Page 2

Thank you very much for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael R. Libor".

Michael R. Libor

MRL/jb

cc: Douglas J. Snyder, Esquire - EPA, (via telefax and regular mail)
Lydia Guy, Regional Hearing Clerk, (via telefax and regular mail)

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of)	
)	
Delta Removal , Inc.; & Abington)	Docket No. CAA-III-077
Memorial Hospital, Inc.,)	
)	
Respondent)	

97 FEB 13 11:12:44
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

PREHEARING ORDER

As you have been previously notified, I have been designated to preside in the above captioned matter. This proceeding arises under Section 113(d)(1) of the Clean Air Act, as amended, 42 U.S.C. § 7413(d)(1). The EPA Rules of Practice ("Rules"), applicable in this administrative enforcement proceeding, are found in 40 C.F.R. Part 22.

As provided in the Rules, §22.18(a), it is the Agency's policy to encourage settlement of proceedings without the necessity of a formal hearing. However, the continuation of settlement negotiations will not provide good cause for not meeting the following schedule set in this Prehearing Order.

The schedule can now be set for the filing of prehearing exchanges under 40 CFR §22.19 in accord with the following procedure:


1. Each party shall submit a list of all expert and other witnesses it intends to call with a brief narrative summary of their expected testimony; and copies of all documents and exhibits it intends to introduce into evidence. The exhibits should include a c.v. or resume for each proposed expert witness.
2. The Complainant shall submit a statement explaining in detail how the proposed penalty amount was determined, including a description of how the specific provisions of any EPA penalty or enforcement policies or guidelines were applied in calculating the penalty.
3. If the Respondent intends to take the position that it is unable to pay the proposed penalty, or that payment will have an adverse effect on Respondent's ability to continue in business, Respondent shall furnish supporting documentation such as financial statements or tax returns.

4. The Complainant shall submit a statement on the applicability of the Paperwork Reduction Act (PRA"), 44 U.S.C. §3501 et seq., of this proceeding, including whether there is a current Office of Management and Budget control number involved and whether the provisions of Section 3512 of the PRA may apply to this case.

5. Each party shall submit its views on the place for the hearing pursuant to §§22.21(d) and 22.19(d) of the Rules. Each party may also indicate when they would be available for the hearing, and give an estimate of the time needed to present its direct case.

The Complainant must make its initial prehearing exchange by April 9, 1997. The Respondent must make its initial prehearing exchange by April 30, 1997. If Respondent does not intend to present a direct case, but does wish to cross-examine Complainant's witnesses, it must submit a statement to that effect instead of a prehearing exchange. After the initial exchanges, the parties may file supplements to their prehearing exchanges (including any reply or rebuttal material), without motion, until 30 days before the date scheduled for the hearing. I will schedule the hearing after I receive the parties' initial exchanges.

The original of all filings, with attachments, shall be sent to the Regional Hearing Clerk, and copies sent to the opposing party and the Administrative Law Judge.



Andrew S. Pearlstein
Administrative Law Judge

Dated: February 12, 1997
Washington, D.C.

In the Matter of Delta Removal, Inc.; & Abington Memorial Hospital, Inc., Respondent
Docket No. CAA-III-077

CERTIFICATE OF SERVICE

I certify that the foregoing **Prehearing Order**, dated February 12, 1997, was sent this day in the following manner to the addressees listed below:

Original by Regular Mail to:

Lydia Guy
Regional Hearing Clerk
U.S. EPA
841 Chestnut Building
Philadelphia, PA 19107

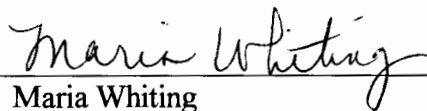
Copy by Regular Mail to:

Attorney for Complainant:

Douglas Snyder, Esquire
Assistant Regional Counsel
U.S. EPA
841 Chestnut Building
Philadelphia, PA 19107

Respondent:

Robert Lavelle, Sr., President
Delta Removal, Inc.
1345 Industrial Boulevard
Southampton, PA 18966



Maria Whiting
Legal Staff Assistant

Dated: February 12, 1997

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of

Delta Removal, Inc.; and Abington
Memorial Hospital, Inc.,

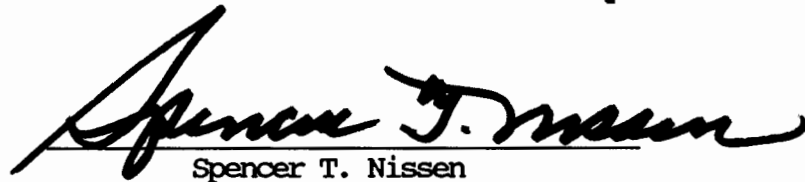
Respondent

)
)
) Docket No. CAA-III-077
)
)
)

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RECEIVED
ADMINISTRATIVE
CLERK

ORDER OF DESIGNATION

Administrative Law Judge Andrew S. Pearlstein, U. S. Environmental Protection Agency, Washington, D. C., is hereby designated as the Administrative Law Judge to preside in this proceeding under Section 113(d) (1) of the Clean Air Act, 42 U.S.C. Section 7413(d) (1), pursuant to Section 22.21(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (40 CFR 22.21(a)).

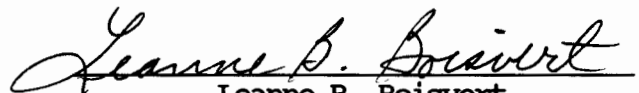


Spencer T. Nissen
Acting Chief Administrative Law Judge

Dated: Jan. 24, 1997
Washington, D. C.

CERTIFICATION

I hereby certify that the original of this Order of Designation was mailed to the U. S. EPA Regional Hearing Clerk, and a copy was sent to Respondent and Complainant in this proceeding.


Leanne B. Boisvert
Office of Administrative Law Judges

Dated: 1-24-97



ABINGTON MEMORIAL HOSPITAL

ABINGTON, PENNSYLVANIA 19001

Richard Montalbano
Vice President
Management Services
215-576-2012

November 13, 1996

Regional Hearing Clerk 3RC11
United States EPA, Region III
841 Chestnut Building
841 Chestnut Street
Philadelphia, PA 19107

RE: Clean Air Act Complaint and
Notice of Opportunity for Hearing
EPA Docket No. CAA-III-077

Abington Memorial Hospital
Asbestos Violation
July 10, 1996

This letter is a follow up to my conversation with Mr. Douglas Snyder regarding Abington Memorial Hospital's response to this Complaint and Notice of Opportunity for Hearing. Attached please find a letter forwarded to the Regional Hearing Clerk on October 25, 1996 by the Delta Removal, Inc. firm in response to this complaint. Please consider the request by Delta Removal, Inc. for a hearing to be a request on behalf of both Delta Removal and Abington Memorial Hospital. Unless notified otherwise, please consider responses from Delta Removal to be responses on behalf of both Abington Memorial Hospital and Delta Removal, Inc.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Richard Montalbano

RM/nr
attachment

c: Douglas Snyder (3RC11)
Assistant Regional Counsel

96 NOV 15 PM 1:07
RECEIVED
EPA REGION III
PHILADELPHIA, PA



DELTA REMOVAL, INC.

(215) 322-2900

ASBESTOS ABATEMENT SPECIALISTS

FAX (215) 322-1616

1345 Industrial Boulevard • Southampton, PA 18966

October 25, 1996

Regional Hearing Clerk 3RC00
United States EPA, Region III
841 Chestnut Building
841 Chestnut Street
Philadelphia, PA 19107

RE: Abington Memorial Hospital
Asbestos Violation
July 10, 1996

Dear Sir/Madam:

Delta Removal, Inc. respectfully requests a hearing regarding the above referenced citation since we were not notified of these allegations until September 30, 1996.

On October 14, 1996, we asked our foreman at the site, Joseph Mahoney to come to our office to recount what had transpired during the EPA inspection on July 10, 1996.

Mr. Mahoney advised the EPA inspector that there had been a pick-up of asbestos bags on July 9, 1996, but all bags would not fit on the truck. These bags were then stored in a room with HAZARD TAPE blocking the entrance.

Not all bags removed from Abington Hospital contained asbestos. Some contained mud fittings which were installed during a major renovation in 1982. Other bags contained wall plaster, samples of which were sent to Criterion Labs for analysis. These samples were negative. In 1982, the law did not permit installation of asbestos fittings, since the law prohibiting the use of asbestos was enacted in 1972.

Since the area was operational at the time of bidding, the estimated 1,000 lineal feet of asbestos pipe insulation behind the plaster walls could not be seen. Mr. Mahoney stated that he told the inspector that this asbestos was removed using mini-containments, which is perfectly legal. Mr. Mahoney said that amended water was used during removal of this pipe insulation and that there also was plaster in the same bags. This is why all the material, hazardous or not, was disposed of as hazardous. If the inspector felt that there was not enough water in the bags, we can only assume that the water was absorbed by the plaster waste mixed in with the asbestos.

We have requested the air test results from Criterion, and as far as we know, there were no high readings. If we were doing dry removal in a work area, the readings certainly would have been high.

At some point, either before or during the hearing, we would like to see the results of tests taken by the EPA inspector and also a copy of any photos that were taken.

Our concern is not the \$16,000 fine, it is our fine reputation in the asbestos removal business for the past 12 years. We have been checked by the regulatory agencies throughout these years and have not had any violations. We take pride in our work and always strive to please our customers.

Abington Memorial Hospital is a fine institution and Delta Removal, Inc. has had a good association with them for many years. They hired Delta Removal, Inc. and Criterion Labs because they wanted organizations who would do the best job for them in protecting their employees and the public.

I regret having to correspond with you under these circumstances and look forward to hearing from you as soon as possible.

Thank you for your assistance regarding this matter.

Respectfully,

Robert Lavelle, Sr.
President

RL/je



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107**

Honorable Jon G. Lotis
Chief Administrative Law Judge (1900)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

NOV 14 1996

Subject: Abington Memorial Hospital
Docket No. CAA-III-077

Dear Judge Lotis:

Pursuant to 40 C.F.R. 22.21(a) of the Consolidated Rules of Practice, I am today transmitting copies of Complaint, and Notice of Opportunity for Hearing in the above captioned matter, along with Respondent's Answer and Request for Hearing. Please assign an Administrative Law Judge to serve as Presiding Officer.

Counsels for Complainant and Respondent are listed below.
Thank you for your cooperation.

Sincerely yours,

A handwritten signature in cursive script, reading "Lydia A. Guy".

Lydia A. Guy
Regional Hearing Clerk

Enclosures (2)

cc: Counsel for Respondent:
Robert Lavelle, Sr. President
Delta Removal, Inc.
1345 Industrial Boulevard
Southampton, PA 18966
Telephone No. (215) 322-1616

Counsel for Complainant:
Douglas Snyder, Esq. (3RC11)
Assistant Regional Counsel
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
Telephone No. (215) 566-2692



DELTA REMOVAL, INC.

(215) 322-2900

ASBESTOS ABATEMENT SPECIALISTS

FAX (215) 322-1616

1345 Industrial Boulevard • Southampton, PA 18966

October 25, 1996

Regional Hearing Clerk 3RC00
United States EPA, Region III
841 Chestnut Building
841 Chestnut Street
Philadelphia, PA 19107

**RE: Abington Memorial Hospital
Asbestos Violation
July 10, 1996** CAA-III-077

RECEIVED
96 OCT 29 PM 4:39
REGIONAL HEARING CLERK
EPA, REGION III, PHILA, PA

Dear Sir/Madam:

Delta Removal, Inc. respectfully requests a hearing regarding the above referenced citation since we were not notified of these allegations until September 30, 1996.

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Abington Memorial Hospital is a fine institution and Delta Removal, Inc. has had a good association with them for many years. They hired Delta Removal, Inc. and Criterion Labs because they wanted organizations who would do the best job for them in protecting their employees and the public.

I regret having to correspond with you under these circumstances and look forward to hearing from you as soon as possible.

Thank you for you assistance regarding this matter.

Respectfully,


Robert Lavelle, Sr.
President

RL/je



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

In Reply Refer To Mail Code: 3RC11

SEP 30 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert Lavelle, Pres.
Delta Removal, Inc.
1345 Industrial Blvd.
Southampton, Pa. 18966

Re: Clean Air Act Complaint and Notice
of Opportunity for Hearing
EPA Docket No. CAA-III-077

Dear Mr. Lavelle:

Enclosed is a Complaint and Notice of Opportunity for Hearing concerning violations of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401 et seq., by Delta Removal, Inc. and Abington Memorial Hospital, Inc. The Complaint is based on violations of the National Emission Standards for Hazardous Air Pollutants for Asbestos ("asbestos NESHAP"), codified at 40 C.F.R. Part 61, Subpart M. The Complaint and Notice of Opportunity for Hearing should be read and analyzed carefully to determine the alternatives available to you in responding to the alleged violations and proposed penalty.

An Answer to this Complaint must be filed within thirty (30) days of its receipt. The Answer must specifically respond to each of the allegations in the Complaint. Failure to respond to this Complaint and Notice by specific Answer within 30 days of your receipt of this document will constitute an admission of the allegations made in the Complaint. Failure to answer shall result in the filing of a Motion for a Default Order and the possible issuance of a Default Order imposing the penalty proposed in the Complaint and Notice without further proceedings.


You may choose to request a hearing to contest any matter set forth in the Complaint. Such request must be included in your Answer to this Complaint. Whether or not a hearing is

requested, you may request an informal settlement conference to discuss resolution of this case. A request for a settlement conference may be included in your Answer or you may contact the attorney assigned to this case:

Douglas Snyder (3RC11)
Assistant Regional Counsel
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Mr. Snyder can be reached by telephone at (215) 566-2692.

Sincerely,


Thomas J. Maslany, Director
Air, Radiation & Toxics Division

enclosure

RECEIVED
96 OCT -1 PM 3:16
U.S. ENVIRONMENTAL PROTECTION AGENCY
PHILADELPHIA, PA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SEP 3 0 1996

In Reply Refer To Mail Code: 3RC11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Felix M. Pilla, Pres.
Abington Memorial Hospital, Inc.
1200 Old York Road
Abington, Pa. 19001

Re: Clean Air Act Complaint and Notice
of Opportunity for Hearing
EPA Docket No. CAA-III-077

Dear Mr. Pilla:

Enclosed is a Complaint and Notice of Opportunity for Hearing concerning violations of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401 et seq., by Delta Removal, Inc. and Abington Memorial Hospital, Inc. The Complaint is based on violations of the National Emission Standards for Hazardous Air Pollutants for Asbestos ("asbestos NESHAP"), codified at 40 C.F.R. Part 61, Subpart M. The Complaint and Notice of Opportunity for Hearing should be read and analyzed carefully to determine the alternatives available to you in responding to the alleged violations and proposed penalty.

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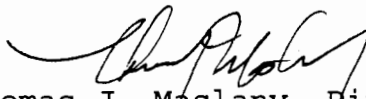
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Douglas Snyder (3RC11)
Assistant Regional Counsel
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Mr. Snyder can be reached by telephone at (215) 566-2692.

Sincerely,



Thomas J. Maslany, Director
Air, Radiation and Toxics Division

Enclosure

RECEIVED
96 OCT -1 PM 3:16
INFORMAL SETTLEMENT CLERK
U.S. ENVIRONMENTAL PROTECTION AGENCY
PHILADELPHIA, PA

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

IN RE:	:	DOCKET NO. CAA-III-077
	:	
DELTA REMOVAL, INC. and	:	
ABINGTON MEMORIAL HOSPITAL, INC.	:	
	:	COMPLAINT AND NOTICE OF
Respondents	:	OPPORTUNITY FOR HEARING

COMPLAINT

This is an administrative action instituted against Abington Memorial Hospital (Abington) and Delta Removal, Inc. (Delta) by the United States Environmental Protection Agency (EPA) pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), for the assessment of a civil penalty.

GENERAL ALLEGATIONS

1. Respondent Abington is a Pennsylvania corporation doing business as a general hospital located at 1200 Old York Road in Abington, Pennsylvania.
2. Respondent Delta is a Pennsylvania corporation specializing in asbestos removal.
3. Under the National Emission Standards for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP), 40 C.F.R. Part 61, subpart M, "renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component. 40 C.F.R. § 61.141.
4. Respondent Abington's hospital is a "facility" as that term is defined at 40 C.F.R. § 61.141.
5. Abington hired Delta to remove pipe insulation and other asbestos-containing materials from the hospital property described in Paragraph 1 above.
6. Abington is the owner of a demolition or renovation activity and Delta is the operator of a demolition or renovation activity, as those terms are defined in 40 C.F.R. § 61.141.
7. On or about June 16, 1996, Respondent Delta submitted to EPA an "Asbestos Abatement and Demolition/Renovation Notification" form ("Notification") signed by Bob Lavelle, Jr., Project Manager for Delta, for the removal of materials described in Paragraph 5 above.

8. This Notification, dated June 16, 1996, stated that Delta would remove 1,025 linear feet of friable asbestos pipe insulation from the second floor of Abington's Highland building. The Notification also stated that the removal would be performed using glove bags or containment.

9. On or about July 15, 1996, Respondent Delta submitted to EPA a revised "Asbestos Abatement and Demolition/Renovation Notification" form ("Revised Notification"), dated July 15, 1996, amending the June 16, 1996 form by adding 60 linear feet of friable pipe insulation to the work to be performed and by changing the completion date.

10. The pipe insulation is friable asbestos material and is therefore "regulated asbestos containing material," (RACM) as that term is defined in 40 C.F.R. § 61.141.

11. On July 10, 1996, a representative of the EPA ("the inspector") conducted an inspection of the area of the Abington Hospital where the removal activity described in the Notification actually took place ("the site"). The purpose of this inspection was to verify Respondents' compliance with the Asbestos NESHAP.

12. The inspector observed that over forty sealed bags of asbestos waste had already been removed and were being stored in a room on the second floor. The inspector was told that the bags contained material removed on the previous day, July 9, 1996, as well as the day of the inspection, July 10, 1996. The inspector noted that the bags were very light, indicating that they may not contain water.

13. The supervisor of the Delta removal crew told the inspector that glove bags were used to remove the pipe insulation.

14. Respondents have not submitted any prior written request to the Administrator of EPA, as required under 40 C.F.R. §61.145(c)(3)(i), to permit removal of regulated asbestos-containing material without wetting.

15. The inspector asked members of the Delta removal crew to take eleven bags to a bathroom being used as a decontamination room. The inspector opened all eleven bags and took samples from seven. He noted that each bag contained pipe insulation, and that the pipe insulation in each bag was dry to the touch and visibly very dry and dusty, with no sign that water had ever been used during the stripping of the asbestos or the storage.

16. The inspector also noted that none of the inspected bags contained glove bags, indicating that the pipe insulation in these bags was removed without glove bags.

17. The inspector did not see proper containment where the work had been performed and was soon to be performed.

18. Under 40 C.F.R. § 61.145(c)(3), each owner or operator of a demolition or renovation activity must adequately wet all regulated asbestos-containing material during stripping or removal unless prior written approval to use alternate means is obtained from the Administrator and the owner uses prescribed alternate means of emissions controls.

COUNT I

19. The allegations in paragraphs 1 through 18 above are incorporated as if alleged herein.

20. Respondents failed to comply with the requirements of 40 C.F.R. § 61.145(c)(3) on July 10, 1996 by not adequately wetting the pipe insulation, which is regulated asbestos-containing material, during removal on July 10, 1996. This constitutes a violation of Section 112 of the Act, 42 U.S.C. § 7412.

COUNT II

21. EPA incorporates by reference the allegations contained in Paragraphs 1 through 18 above.

22. Respondents violated the requirement of 40 C.F.R. §61.145(c)(6)(i) on July 10, 1996 by failing to adequately wet the pipe insulation and by failing to ensure that it remained wet until collected and contained or treated in preparation for disposal. This constitutes a violation of Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

COUNT III

23. EPA incorporates by reference the allegations contained in Paragraphs 1 through 18 above.

24. Respondents failed to comply with the requirements of 40 C.F.R. § 61.145(c)(3) on July 9, 1996 by not adequately wetting the pipe insulation, which is regulated asbestos-containing material, during removal on July 9, 1996. This constitutes a violation of Section 112 of the Act, 42 U.S.C. § 7412.

COUNT IV

25. EPA incorporates by reference the allegations contained in Paragraphs 1 through 18 above.

26. Respondents failed to comply with the requirements of 40 C.F.R. § 61.145(c)(6)(i) on July 9, 1996 by failing to adequately wet the pipe insulation and by failing to ensure that it remained wet until collected and contained or treated in preparation for disposal. This constitutes a violation of Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Proposed Penalty

Pursuant to Section 113(d and e) of the Act, 42 U.S.C. §7413(d and e), EPA proposes to assess a civil penalty of \$16,000 against Respondents as follows:

Count I: 40 C.F.R. § 61.145(c)(3), failure to wet RACM while stripping on July 10, 1996	\$ 5,000
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Count II: 40 C.F.R. 61.145(c)(6), failure to keep RACM wet until collected and contained on July 10, 1996:	\$ 5,000
--	----------

Count III: 40 C.F.R. § 61.145(c)(3), failure to wet RACM while stripping on July 9, 1996:	\$ 500
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Count IV: 40 C.F.R. § 61.145(c)(6), failure to keep RACM wet until collected and contained on July 9, 1996:	\$ 500
---	--------

Subtotal:	\$ 11,000
-----------	-----------

Size of the violator:	\$ 5,000
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Economic Benefit - less than \$5,000 for water and labor	\$ 0
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TOTAL PROPOSED PENALTY	\$16,000
------------------------	----------

This proposed penalty has been calculated in accordance with the statutory factors set forth in Section 113(e) of the Clean Air Act, which requires that the Agency take into consideration,

among other factors, the size of the business, the economic impact of the penalty on the business, the violators full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of previous penalties assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The proposed penalty is also calculated in accordance with the Clean Air Act Stationary Source Civil Penalty Policy and the Asbestos Demolition and Renovation Civil Penalty Policy, copies of which accompany this Complaint.

The proposed penalty of \$16,000 reflects the initial judgment of the EPA of Respondents ability to pay the penalty and to continue in business based on the size of their businesses and the economic impact of the proposed penalty on each business. Respondents have the burden of submitting appropriate documentation to rebut that presumption during this proceeding. In addition, to the extent that facts or circumstances unknown to EPA at the time of the issuance of this Complaint become known after issuance of this Complaint, such facts and circumstances may also be considered as a basis for adjusting the proposed civil penalty assessed in the Complaint.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondent has the right to request a hearing to contest any matter of law or material fact set forth in the Complaint or the appropriateness of the proposed penalty. To request a hearing, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk (3RC00), EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, within thirty (30) days of receipt of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. Such a statement is deemed to be a denial of the allegation. The Answer should contain: (1) a statement of the facts which constitute the grounds of defense, (2) a concise statement of the facts which Respondent intends to place at issue in the hearing, and (3) a statement as to whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing under Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A). Failure to Answer may result

in the filing of a Motion for Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq., and the Consolidated Rules of Practice, 40 C.F.R. Part 22. A copy of 40 C.F.R. Part 22 is enclosed. Hearings will be held in a location to be determined at a later date pursuant to 40 C.F.R. § 22.21(d).

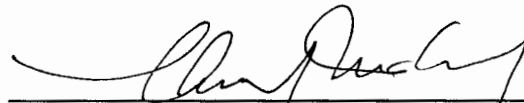
SETTLEMENT CONFERENCE

EPA encourages settlement of the proceedings at any time after issuance of a Complaint if such settlement is consistent with the provisions and objectives of the Act. Whether or not a hearing is requested, Respondent may confer with EPA in a settlement conference regarding the allegations of the Complaint and the amount of the proposed civil penalty.

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by EPA, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator. Settlement conferences shall not affect the requirement to file a timely Answer to the Complaint.

The attorney assigned to this case is Douglas Snyder, Assistant Regional Counsel. If you have any questions or desire to arrange an informal settlement conference, please contact Mr. Snyder at (215) 566-2692. Please be advised that the Rules of Practice prohibit any unilateral discussion of the merits of a case with the Administrator, Judicial Officer, Regional Administrator, Regional Judicial Officer, or the Presiding Officer after the issuance of a Complaint.

Sept 30 1996
Date



Thomas J. Maslany, Director
Air, Radiation & Toxics Division

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AIR, RADIATION & TOXICS DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Complaint and Notice of Opportunity for Hearing was hand-delivered to the Regional Hearing Clerk, EPA Region III on September 30, 1996, and that true and correct copies were mailed via certified mail, return receipt requested, postage prepaid, to the following persons on the date shown below:

Mr. Felix M. Pilla, Pres.
Abington Memorial Hospital, Inc.
1200 Old York Road
Abington, Pa. 19001

Robert Lavelle, Pres.
Delta Removal, Inc.
1345 Industrial Blvd.
Southampton, Pa. 18966

10/1/96
Date

Douglas J. Snyder
Douglas Snyder
Assistant Regional Counsel

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ADMINISTRATIVE CLERK
EPA REGION III, PA